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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,713	03/08/2001	Klaus Krinner	F-6818	7592
7590		07/15/2005	EXAMINER	
Jordan and Hamburg		LE, TAN		
122 East 42nd Street		ART UNIT		
New York, NY 10168		PAPER NUMBER		

3632

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/762,713

Applicant(s)

KRINNER ET AL.

Examiner

Tan Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33 and 34 is/are allowed.
- 6) ☒ Claim(s) 35-45, 47-50, 52 and 53 is/are rejected.
- 7) ☒ Claim(s) 46, 51, 54 and 55 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is the sixth office action for serial number 09/762,713. This application remains claims numbered 33-55.
2. Amendments to specification and drawing (replacement sheet 1/3) received on 3/14/05 have been entered approved.

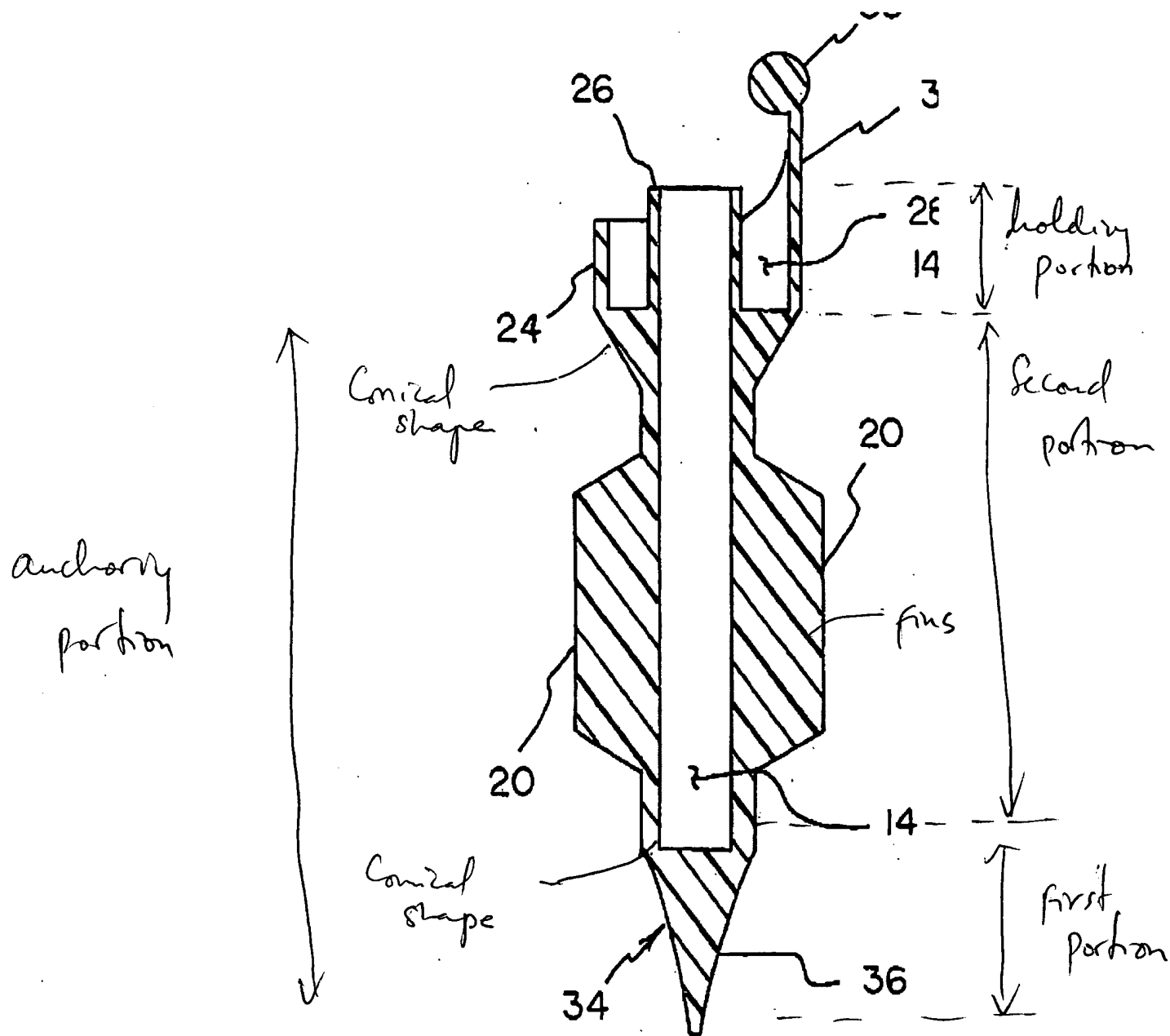
Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 35-39, 42-45, 47-49 and 52-53 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent no. 5,524,844 to Lesar.

Regarding claims 35-39, 42-45, 47-49 and 52-53, Lesar discloses substantially all of the limitations of these claims as evidently shown on Fig. 7 for example (See marked-up below).

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Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 40 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lesar.

Regarding claim 40, Lesar's drawings appears showing the difference between the first cone angle and the second cone angle is about 1 and 3 degrees although Lesar but does not particularly recite in the specification. Nevertheless, it would have been an obvious matter of the design choice to make the cone angles between 1 and 3 degrees, since such a modification would have involved a mere change in the angle of the component and one skilled in the art could have made a variety of different angles if so desired.

Regarding claim 50, Lesar discloses the tip what appears to be a rectangular in shape. It would also have been an obvious matter of the design choice to make the shape of the tip being a square since such a modification would have involved a mere change in the shape and one skilled in the art could have make a variety of different shapes if so desired. The particular shape claimed by the Applicant is nothing more than one of numerous shapes that a person having ordinary skill in the art provides for using routine experimentation based on its suitability for the intended use of the invention. See *In Re Daily*, 149 USPQ 47 (CCPA 1976).

Claim 41 is rejected under 35 U.S.C. 103(a)) as being unpatentable Lesar in view of DE Patent No. 19637985 to Gerhard (IDS) or in view of US Patent No. 6,299,125 to Zayeratabat.

Unlike Lesar, Gerhard or Zayeratabat each teaches a bore extending through the anchoring portion so that water disposed therein may consequently exit from the bore in the anchoring portion of the basic body.

It would have been obvious to have provided a bore through the anchoring portion of the basic body as taught by Gerhard in order to allow water disposed therein may consequently exit from the bore in the anchoring portion of the basic body.

Allowable Subject Matter

5. Claims 33-34 are allowed.

Claims 46, 51 and 54-55 are objected but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 3/14/05 have been fully considered but they are not persuasive.

Applicant's arguments with respect to Lesar as present on pages 13-17 are well taken but they are not persuasive. Most of the arguments based on the subject matter that are not stated in the claims. Examiner respectfully contends that whether Lesar

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alone or Lesar in view of Gerhard, teach the limitations as claimed as pointed out in the office action.

Applicant's argued that Lesar fails to teach two cone-shape portions with different angles. This is not found persuasive since Lesar clearly teaches two cone-shape portions with different cone angles. As pointed out by examiner in the office action, portions of the anchoring portion and the holding portion of Lesar are substantially hollow.

With regards to argument that Lesar fails to teach the claimed forming of the anchoring portion by hammering the shape from a cylindrical part. Examiner contends that the product-by-process claims are not construed as being limited to the product formed by the specific process recited. In re Hirao et al., 535 F2d 67, 190 U.S.P.Q 15, CCPA 1976).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818.


The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

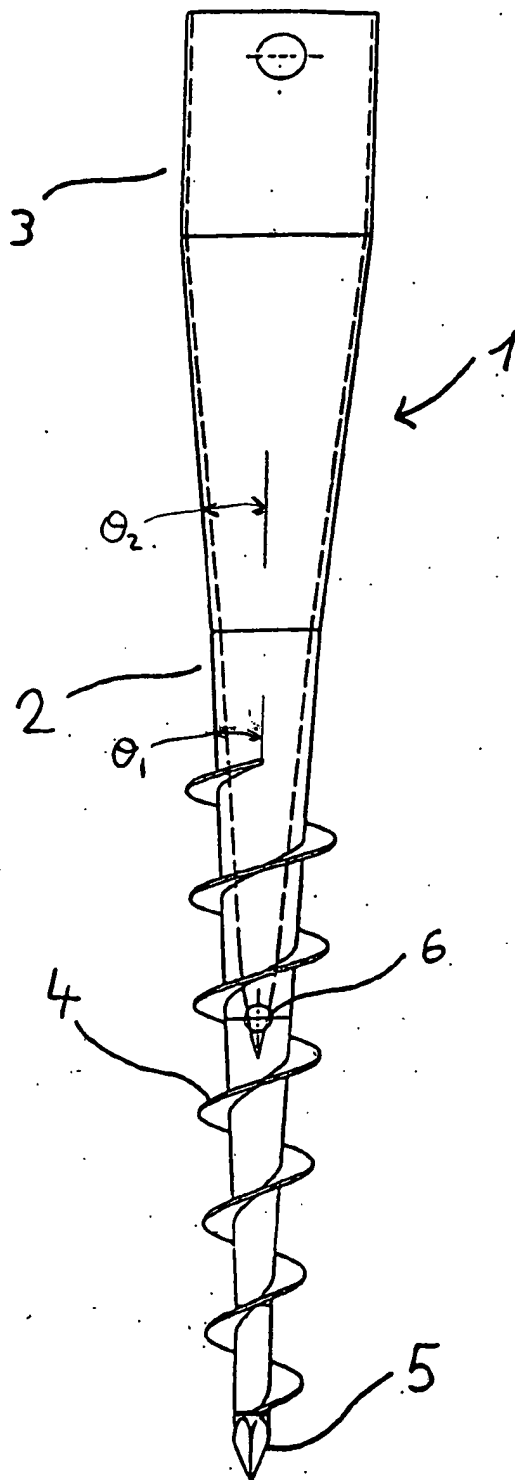


Tan Le
Patent examiner
June 30, 2005.



ANITA KING
PRIMARY EXAMINER

Fig. 1



Approved
6/24/05

